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I hereby certify that this document and its attachments are being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" service, as Express Mail No. EV207523356US, in an envelope addressed to Commissioner for Trademarks, Box TTAB NO FEE; 2900 Crystal Drive, Arlington, Virginia 22202-3518, on this 29th day of August, 2003.


Printed Name: Bryan Haynes, Esq.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PO-BOYZ, LTD.,

Concurrent Use Applicant,

vs.

ANTONE'S IMPORT COMPANY,

Registrant.

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Concurrent Use No.: 1,236



08-29-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

TO: Elizabeth A. Dunn, Attorney, Trademark Trial and Appeal Board

CONCURRENT USE APPLICANT'S RESPONSE TO REQUEST TO SHOW CAUSE

On or about July 31, 2003, the Trademark Trial and Appeal Board ("TTAB") issued a request to Po-Boyz, Ltd. ("Po-Boyz") to show cause why a default judgment should not be entered due to "applicant's apparent loss of interest in this case" (the "July 31 Order"). As indicated below, Po-Boyz has not lost interest in this case and absolutely desires to ensure that its concurrent use applications are granted and that Antone's Import Company's ("AIC") registrations are geographically limited.

As indication in the July 31 Order, the TTAB instituted this concurrent use proceeding on December 18, 2001. At or about that time, the TTAB issued a show cause order (the "Show Cause Order") essentially placing at least the initial burden on AIC to show cause why the concurrent use applications sought by Po-Boyz should not be issued, and why AIC's registrations should not be geographically restricted. The concurrent use proceeding was (and is) therefore

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structured through the Show Cause Order to provide Po-Boyz exactly what it is seeking through its applications (that is, concurrent use registrations and a geographical limitation on AIC's registrations) without further action by Po-Boyz until and unless AIC meets at least the initial burden set forth in the Show Cause Order.

For the next approximately ten months after the Show Cause Order was issued, rather than either capitulate to the issuance of the concurrent use registrations to Po-Boyz or making an effort to meet its initial burden under the Show Cause Order, AIC sought extensions of time to respond to the Show Cause Order. Po-Boyz did not also seek extensions, as the Show Cause Order indicated that the concurrent use registrations sought by Po-Boyz would issue unless AIC meet an initial burden of proof. Therefore, Po-Boyz did not perceive that it needed to do anything further to obtain the relief it wanted until and unless AIC made an initial effort to meet this burden (i.e., if neither of the parties did anything further, Po-Boyz would receive the registrations). Although Po-Boyz did not desire further extension to respond to the Show Cause Order for the reasons stated, counsel for Po-Boyz acted in a professional manner and consented each time to AIC's request for such an extension.

After the approximately ten month delay through AIC's multiple request for extension, AIC finally, for the first time, requested on October 15, 2002 that the TTAB suspend the concurrent use proceeding and allow AIC to conduct discovery "to fully respond to the [Show Cause Order]" (the "Motion to Suspend"). While AIC set forth in its Motion to Suspend several arguments as to why it believed it should be allowed an opportunity to conduct discovery before having to respond to the Show Cause Order, AIC did not, by filing the Motion to Suspend, attempt to meet its burden of proof under the Show Cause Order. Nor did AIC even seek the denial of Po-Boyz concurrent use applications through the Motion to Suspend. Instead, it merely requested an opportunity to conduct discovery and stated the reasons it believed such discovery

was necessary. Po-Boyz did not, therefore, perceive the need to respond to the Motion to Suspend in any manner other than to provide the TTAB with any reason why it believed the proceeding should not be suspended or discovery allowed to be undertaken. To ensure that it had adequate time to consider whether it wanted to oppose the Motion to Suspend and, if so, adequate time to prepare a response to the Motion to Suspend, Po-Boyz requested an extension of the time to file a response to AIC's request until December 30, 2002.

Following the filing of the request to extend the time to file a response to the Motion to Suspend, Po-Boyz did not hear further from the TTAB until the July 31 Order was received. Po-Boyz did not, therefore, know whether the extension had been or would be granted. Nevertheless, on or about December 30, 2002, Po-Boyz determined that, while it was not in agreement with the Motion to Suspend, the time and expense of resisting the Motion to Suspend was outweighed by the likelihood that the TTAB would nevertheless probably allow the parties the opportunity to conduct discovery under the circumstances of this matter. Po-Boyz accordingly did not file a response to the Motion to Suspend by December 30, 2002. In not filing a response, Po-Boyz simply assumed that the TTAB would go ahead and grant the Motion to Suspend and allow discovery to be conducted by the parties.

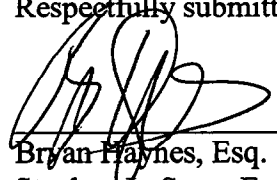
However, the fact that Po-Boyz did not file a response to the Motion to Suspend should not under any circumstance be construed by the TTAB as an intent by Po-Boyz to waive its right to obtain concurrent use registrations, nor even a loss of interest in this case by Po-Boyz. Po-Boyz is and has been at all times prepared to undertake any action necessary to ensure that it

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receives the concurrent use registrations it is seeking and a geographic limitation on AIC's registrations. In that regard it stands immediately ready to proceed in this matter. If the TTAB grants the Motion to Suspend, Po-Boyz is prepared to undertake the discovery necessary to defend its position in this matter and to respond to all reasonable and otherwise non-objectionable from AIC. Po-Boyz is further prepared to respond to any effort AIC may put forth to meet its burden under the Show Cause Order. Failing such effort by AIC, Po-Boyz believes the TTAB should, as set forth in the Show Cause Order, cause Po-Boyz' concurrent use applications to be granted and allow registrations on such applications to be issued.

Accordingly, Po-Boyz, Ltd. respectfully requests that the Trademark Trial and Appeal Board not enter a default judgment against Po-Boyz, Ltd. and that the Board otherwise grant Po-Boyz, Ltd.'s concurrent use applications.

Respectfully submitted,



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**ATTORNEYS FOR CONCURRENT
USE APPLICANT
PO-BOYZ, LTD.**

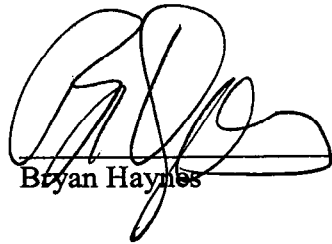
Dated: August 29, 2003

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via first class mail, postage prepaid, to the following counsel of record for Registrant this 29th day of August, 2003:

Harvey B. Jacobson, Jr.
Matthew J. Cuccias
JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004



Bryan Haynes

**AFFIDAVIT
OF BRYAN HAYNES**

STATE OF TEXAS

COUNTY OF DALLAS

BEFORE ME the undersigned duly commissioned notary public, personally came and appeared:

BRYAN HAYNES

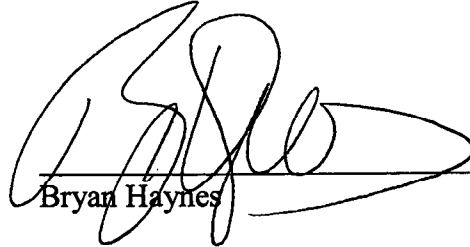
who, after being duly sworn by me, did state:

1. That he is a partner with the law firm of Locke Liddell & Sapp LLP, and is one of Po-Boyz, Ltd.'s counsel in the Concurrent Use Proceeding No. 1,236 (the "Proceeding");
2. That in this position, he has personal knowledge of the matters stated herein;
3. That Po-Boyz, Ltd. has not lost interest in the Proceeding;
4. That Po-Boyz, Ltd. has not by any action or omission in this matter intended to waive its right to pursue concurrent use registrations under those applications that are at issue in the Proceeding, or otherwise;
5. That the decision to not file a document with the TTAB advising that Po-Boyz, Ltd. did not oppose Antone's Import Company's Motion to Suspend and For Discovery was not intended in any manner to convey to the TTAB that Po-Boyz, Ltd. was no longer interested in the matter or that Po-Boyz, Ltd. intended to waive its right to pursue concurrent use registrations under those applications that are at issue in the Proceeding, or otherwise;
6. That it was his belief that not filing a document with the TTAB advising that Po-Boyz, Ltd. did not oppose Antone's Import Company's Motion to Suspend and

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For Discovery would lead only to such motion being granted, and not that a default judgment would be entered against Po-Boyz, Ltd.;

Further Affiant Sayeth Not.


Bryan Haynes

Sworn to and subscribed before me this 29th day of August, 2003.


Notary Public

My commission expires:
6/19/06



TTAB

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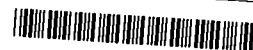
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August 29, 2003



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Commissioner for Trademarks

BOX TTAB - NO FEE

2900 Crystal Drive

Arlington, Virginia 22202-3514

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Re: Concurrent Use No. 1,236
Our File No. 041851/00007


Dear Sir or Madam:

Enclosed for filing in the United States Patent and Trademark Office are the following:

1. Concurrent Use Applicant's Response to Request to Show Cause;
2. Affidavit of Bryan Haynes;
3. Certificate of Mailing by Express Mail No. EV 207523356 US;
4. Return Postcard; and
5. Return envelope.

The Commissioner is hereby authorized to charge any additional fee which may be required to Deposit Account No. 12-1781 (42328-00001). A duplicate copy of this sheet is enclosed.

Respectfully submitted,


Bryan Haynes
For the Firm

BH/ght
Enclosures

Commissioner for Trademarks

August 29, 2003

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cc: Harvey B. Jacobson, Jr. (w/enclosures)
(Via Certified Mail, Return Receipt Requested)